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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,876	08/27/2003	Frank Reincke	J010-3478	4890
7590 10/25/2006				
LACKENBACH SIEGEL One Chase Road Scarsdale, NY 10583			EXAMINER STRIMBU, GREGORY J	
			ART UNIT 3634	PAPER NUMBER

DATE MAILED: 10/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/648,876

**Applicant(s)**

REINEKE, FRANK

**Examiner**

Gregory J. Strimbu

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### ***Election/Restrictions***

Applicant's election of the invention of Group I in the reply filed on August 14, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 16-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 14, 2006.

### ***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 602.

Note that the Oath filed July 12, 2004 identifies the specification as US serial number 10/649,165, however, the present application has the serial number 10/648,876.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the C-shaped

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reinforcement must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because a section line labeled "2-2" should be included in figure 1 showing the line from which the cross-sectional view of figure 2 is taken. Figure 2 is objected to because it fails to use the proper cross sectional shading. Note that the section 2 is shown with a metal cross sectional shading, however, the section 2 comprises a plastic. See MPEP 608.02. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

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abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested the applicant amend the title to include the composite composition of the reinforcement and to delete the references to the method and device for producing the seal.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract

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on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because "[t]he invention relates to" on line 1 can be easily implied and therefore should be deleted. On line 4, "is distinguished thereby that the reinforcement forms" is grammatically awkward and confusing. On line 14, "and form with it a profile strand" is grammatically awkward and confusing. On line 16, "the strip-form vehicle seal" is confusing since it is unclear if the applicant is referring to the strand-form vehicle seal set forth above or is setting forth another element of the invention. Additionally, the abstract is objected to because it fails to adequately describe the method of making the seal or the device for its production. Finally, the abstract is objected to because it is too long. Correction is required. See MPEP § 608.01(b).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

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- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The disclosure is objected to because of the following informalities: recitations such as "[sic: section]" on line 20 of page 7 are confusing since it is unclear if the recitation is intended to be part of the specification or is intended to be deleted.

Appropriate correction is required.

### ***Claim Objections***

Claims 1-15 are objected to because each of the claims fails to begin with the customary article "A" or "The". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "or" on line 2 of claim 1 render the claims indefinite because it is unclear which one of the non-equivalent alternatives the applicant is attempting to positively set forth. Additionally, it is unclear what shapes are encompassed by the recitation "one derived therefrom". Recitations such as "soft" on line 5 of claim 1 render the claims indefinite because they are relative terms whose meaning cannot be readily understood by one with ordinary skill in the art and are not defined by the specification. Recitations such as "and/or" on line 4 of claim 3 render the claims indefinite because it is unclear what the applicant is attempting to set forth. What is meant by the recitation "/"? Is the applicant setting forth "and" only, "or" only, or "and" or "or"? Recitations such as "in that" on lines 5-6 of claim 8 render the claims indefinite because it is unclear if the applicant is further defining the two different substances. Recitations such as "formed out" on line 6 of claim 8 render the claims indefinite because it is unclear what the applicant is attempting to set forth. What comprises "formed out"? Is the applicant referring to a specific type of forming?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9 and 12-15, as best understood by the examiner, are rejected under 35 U.S.C. 102(b) as being anticipated by Shigeki et al. (US 4,676,856). Shigeki



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et al. discloses a strand-form vehicle seal 1, equipped with a flexible reinforcement with U- or C-form cross section 14 or one derived therefrom, characterized in that the reinforcement forms a strand of at least two different substances, which is comprised of individual sections (1) of a nonmetallic, soft-elastic material comprising the rubber of the base portion 11 together with individual sections (2) of another nonmetallic, however dimensionally stable and rigid, material comprising the resin of the reinforcement 14 with the individual sections (1,2) of the reinforcement being disposed intermittently alternating one after the other because the rubber of the base portion will extend between the sections of the reinforcement 14 as shown in figure 4, the lengths of the nonmetallic, dimensionally stable, and rigid material vary within the strand since the length of the each section of the nonmetallic, dimensionally stable, and rigid material is longer at a bottom portion thereof compared to the top portion thereof as shown in figure 4, a hollow volume 12.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shigeki et al. as applied to claims 1-3, 5-9 and 12-15 above, and further in view of

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Drozd et al. (US 6,652,952). Drozd et al. discloses a seal comprising a soft elastic material 14 comprising a thermoplastic elastomer (see column 3, lines 36-37).

It would have been obvious to one of ordinary skill in the art to provide Shigeki et al. with a thermoplastic elastomer construction, as taught by Drozd et al., to increase the longevity of the seal.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shigeki et al. as applied to claims 1-3, 5-9 and 12-15 above, and further in view of Takeuchi et al. Takeuchi et al. discloses the use of an injection molding process for forming a seal 20. See column 4, lines 5-6.

It would have been obvious to one of ordinary skill in the art to manufacture Shigeki et al. with an injection molding process, as taught by Takeuchi et al., to produce a seal with increased tolerances.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cook, Gopalan et al., Malm, and Frappier are cited for disclosing a seal having a non-metal reinforcement.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory J. Strimbu  
Primary Examiner  
Art Unit 3634  
October 24, 2006